

11	ALBERTA ROSE JONES,	)	<b>Case No. C04 02951 JW EAI</b>
12		)	
	Plaintiff,	)	<b>ANSWER OF KENT TRIBBLE</b>
13		)	
	v.	)	
14		)	
		)	
15	PATRICIA COLEMAN, et al.,	)	
		)	
16	Defendant.	)	
		)	
17	_____	)	

## I. JURISDICTION

2. Answering the second paragraph of the Complaint, the Defendant is without sufficient knowledge or information to form a belief as to the truth of and on that basis denies the allegations contained therein.

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1           **II. PARTIES**

2           1. Answering the first paragraph of the Complaint, the Defendant is without sufficient  
3 knowledge or information to form a belief as to the truth of and on that basis denies the  
4 allegations contained therein.

5           2. Answering the second paragraph of the Complaint, the Defendant is without  
6 sufficient knowledge or information to form a belief as to the truth of and on that basis denies  
7 the allegations contained therein.

8           **III. STATEMENT OF FACTS**

9           1. Answering the first paragraph of the Complaint, the Defendant is without sufficient  
10 knowledge or information to form a belief as to the truth of and on that basis denies the  
11 allegations contained therein.

12           2. Answering the second paragraph of the Complaint, the Defendant is without  
13 sufficient knowledge or information to form a belief as to the truth of and on that basis denies  
14 the allegations contained therein.

15           3. Answering the third paragraph of the Complaint, the Defendant is without sufficient  
16 knowledge or information to form a belief as to the truth of and on that basis denies the  
17 allegations contained therein.

18           4. Answering the fourth paragraph of the Complaint, the Defendant is without sufficient  
19 knowledge or information to form a belief as to the truth of and on that basis denies the  
20 allegations contained therein.

21           5. Answering the fifth paragraph of the Complaint, the Defendant is without sufficient  
22 knowledge or information to form a belief as to the truth of and on that basis denies the  
23 allegations contained therein.

24           6. Answering the sixth paragraph of the Complaint, the Defendant is without sufficient  
25 knowledge or information to form a belief as to the truth of and on that basis denies the  
26 allegations contained therein.

1           7. Answering the seventh paragraph of the Complaint, the Defendant is without  
2 sufficient knowledge or information to form a belief as to the truth of and on that basis denies  
3 the allegations contained therein.

4           8. Answering the eighth paragraph of the Complaint, the Defendant is without sufficient  
5 knowledge or information to form a belief as to the truth of and on that basis denies the  
6 allegations contained therein.

7           9. Answering the ninth paragraph of the Complaint, the Defendant is without sufficient  
8 knowledge or information to form a belief as to the truth of and on that basis denies the  
9 allegations contained therein.

10          10. Answering the tenth paragraph of the Complaint, the Defendant is without sufficient  
11 knowledge or information to form a belief as to the truth of and on that basis denies the  
12 allegations contained therein.

13          11. Answering the eleventh paragraph of the Complaint, the Defendant is without  
14 sufficient knowledge or information to form a belief as to the truth of and on that basis denies  
15 the allegations contained therein.

16          12. Answering the twelfth paragraph of the Complaint, the Defendant is without  
17 sufficient knowledge or information to form a belief as to the truth of and on that basis denies  
18 the allegations contained therein.

19          13. Answering the thirteenth paragraph of the Complaint, the Defendant is without  
20 sufficient knowledge or information to form a belief as to the truth of and on that basis denies  
21 the allegations contained therein.

22          14. Answering the fourteenth paragraph of the Complaint, the Defendant is without  
23 sufficient knowledge or information to form a belief as to the truth of and on that basis denies  
24 the allegations contained therein.

25          15. Answering the fifteenth paragraph of the Complaint, the Defendant is without  
26 sufficient knowledge or information to form a belief as to the truth of and on that basis denies  
27 the allegations contained therein.  
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1           16. Answering the sixteenth paragraph of the Complaint, the Defendant is without  
2 sufficient knowledge or information to form a belief as to the truth of and on that basis denies  
3 the allegations contained therein.

4           17. Answering the seventeenth paragraph of the Complaint, the Defendant is without  
5 sufficient knowledge or information to form a belief as to the truth of and on that basis denies  
6 the allegations contained therein.

7           18. Answering the eighteenth paragraph of the Complaint, the Defendant is without  
8 sufficient knowledge or information to form a belief as to the truth of and on that basis denies  
9 the allegations contained therein.

10          19. Answering the nineteenth paragraph of the Complaint, the Defendant is without  
11 sufficient knowledge or information to form a belief as to the truth of and on that basis denies  
12 the allegations contained therein.

13          20. Answering the twentieth paragraph of the Complaint, the Defendant is without  
14 sufficient knowledge or information to form a belief as to the truth of and on that basis denies  
15 the allegations contained therein.

16          21. Answering the twenty-first paragraph of the Complaint, the Defendant is without  
17 sufficient knowledge or information to form a belief as to the truth of and on that basis denies  
18 the allegations contained therein.

19          22. Answering the twenty-second paragraph of the Complaint, the Defendant is without  
20 sufficient knowledge or information to form a belief as to the truth of and on that basis denies  
21 the allegations contained therein.

22          23. Answering the twenty-third paragraph of the Complaint, the Defendant is without  
23 sufficient knowledge or information to form a belief as to the truth of and on that basis denies  
24 the allegations contained therein.

25          24. Answering the twenty-fourth paragraph of the Complaint, the Defendant is without  
26 sufficient knowledge or information to form a belief as to the truth of and on that basis denies  
27 the allegations contained therein.  
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1           25. Answering the twenty-first paragraph of the Complaint, the Defendant is without  
2 sufficient knowledge or information to form a belief as to the truth of and on that basis denies  
3 the allegations contained therein.

4           26. Answering the twenty-sixth paragraph of the Complaint, the Defendant is without  
5 sufficient knowledge or information to form a belief as to the truth of and on that basis denies  
6 the allegations contained therein.

7           27. Answering the twenty-seventh paragraph of the Complaint, the Defendant is without  
8 sufficient knowledge or information to form a belief as to the truth of and on that basis denies  
9 the allegations contained therein.

10          28. Answering the twenty-eighth paragraph of the Complaint, the Defendant is without  
11 sufficient knowledge or information to form a belief as to the truth of and on that basis denies  
12 the allegations contained therein.

13          29. Answering the twenty-ninth paragraph of the Complaint, the Defendant is without  
14 sufficient knowledge or information to form a belief as to the truth of and on that basis denies  
15 the allegations contained therein.

16          30. Answering the thirtieth paragraph of the Complaint, the Defendant is without  
17 sufficient knowledge or information to form a belief as to the truth of and on that basis denies  
18 the allegations contained therein.

19          31. Answering the thirty-first paragraph of the Complaint, the Defendant is without  
20 sufficient knowledge or information to form a belief as to the truth of and on that basis denies  
21 the allegations contained therein.

22          32. Answering the thirty-second paragraph of the Complaint, the Defendant is without  
23 sufficient knowledge or information to form a belief as to the truth of and on that basis denies  
24 the allegations contained therein.

25          33. Answering the thirty-third paragraph of the Complaint, the Defendant is without  
26 sufficient knowledge or information to form a belief as to the truth of and on that basis denies  
27 the allegations contained therein.  
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1           34. Answering the thirty-fourth paragraph of the Complaint, the Defendant is without  
2 sufficient knowledge or information to form a belief as to the truth of and on that basis denies  
3 the allegations contained therein.

4                                   **AFFIRMATIVE DEFENSES**

5           1.       As a first affirmative defense to each and every allegation and every Cause of  
6 Action set forth in the Complaint, the Defendant alleges that those causes of action fail to state  
7 any claim upon which relief can be granted.

8           2.       As a second affirmative defense to Plaintiff's Complaint, Defendant alleges that  
9 Plaintiff's claims are barred by the applicable statutes of limitation.

10          3.       As a third affirmative defense to Plaintiff's Complaint, Defendant alleges that  
11 Plaintiff was negligent and careless in and about matters and events set forth in the Complaint.  
12 Her negligence proximately contributed to her alleged injuries and damages. Any jury verdict  
13 in her favor that may be rendered in this case, therefore, must be reduced by the percentage  
14 that their negligence contributed to any of their damages or injuries.

15          4.       As a fourth affirmative defense to Plaintiff's Causes of Action in the Complaint,  
16 the Defendant alleges that they have qualified immunity from liability for matters set forth in  
17 the Complaint. (Harlow v. Fitzgerald [1982] 457 U.S. 800.)

18          5.       As a fifth affirmative defense to Plaintiff's Causes of Action in her Complaint,  
19 the Defendant alleges that any harm which came to Plaintiff was a direct and proximate cause  
20 of her own actions.

21          6.       As a sixth affirmative defense to Plaintiff's Causes of Action in the Complaint,  
22 the Defendant alleges that any of Plaintiff's alleged damages or injuries were aggravated by  
23 her failure to use reasonable diligence to mitigate them.

24          7.       As a seventh affirmative defense to Plaintiff's Causes of Action in the  
25 Complaint, the Defendant alleges that any of Plaintiff's damages or injuries were proximately  
26 caused by the negligence of other persons, firms, corporations or entities, for whom the  
27 defendants are not responsible. Should Plaintiff be entitled to recover under the Complaint,  
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her recovery should be reduced in proportion to the negligence of such other persons, firms, corporations or entities.

8. As a eighth affirmative defense to Plaintiff's Causes of Action in the Complaint, Defendant alleges they were acting in their official capacities at all times relevant to this action, and any alleged actions were made in good faith, without malice, or were performed with a reasonable belief that their actions were authorized by and in accord with existing law and authority. Act Up!/Portland v. Bagley, 988 F.2d 868, 871 (9<sup>th</sup> Cir. 1993); Romero v. Kitsap County, 931 F.2d 624, 627 (9<sup>th</sup> Cir. 1991).

9. As a ninth affirmative defense to Plaintiff's Causes of Action in the Complaint, Defendant alleges that his actions were privileged as a matter of law. Consequently, no liability can be cast upon them in their individual capacities.

10. As a tenth affirmative defense to the Plaintiff's Causes of Action in the Complaint, Defendant alleges that to the extent Plaintiff attempts to allege state claims, these claims are barred pursuant to California Government Code Sections 911.2, 911.4, 945.4, 946.6, 950.2, 950.6, 815.2, 815.6, 818.2, 818.8, 820, 820.2, 820.4, 820.8, 821, 821.6, 822.2, 844.6, 845, 845.2, 845.6, 846, 855, 855.8, 856 and 856.4. Said sections are pleaded as though fully set forth herein.

### **PRAYER FOR JUDGMENT**

The Defendant prays for judgment as follows:

1. That Plaintiff takes nothing by her action;
2. That the Defendant be awarded the costs of defending this lawsuit;
3. Defendant have a judgment against the Plaintiff; and,
4. For such other and further relief as this Court deems proper.

DATED: October 25, 2004

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 ALESIA JONES-MARTIN  
 Assistant City Attorney  
 Attorney for Defendant  
 KENT TRIBBLE

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ANSWER